

DOOLEY ROBERTS & FOWLER LLP  
Suite 201, Orlean Pacific Plaza  
865 South Marine Corps Drive  
Tamuning, Guam 96913  
Telephone: (671) 646-1222  
Facsimile: (671) 646-1223

IN THE DISTRICT COURT OF GUAM  
TERRITORY OF GUAM

Stamped in Error

LOURDES P. AGUON-SCHULTE,

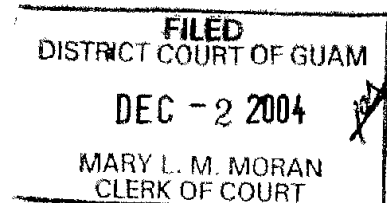
Plaintiff,

vs.

THE GUAM ELECTION COMMISSION,  
*et al.*,

Defendants.

CIVIL CASE NO. ~~04-00045~~ <sup>CV 1103-04</sup>



JAY MERRILL, on his own behalf and on  
behalf of all other similarly situated voters  
desirous of casting a vote in favor of  
Proposal A at a fair and legal election,

Plaintiffs,

vs.

THE GUAM ELECTION COMMISSION;  
GERALD A. TAITANO, in his capacity as  
the Executive Director of THE GUAM  
ELECTION COMMISSION, I MINA'  
BENTE SIETE NA LIHESLATURAN  
GUAHAN (The 27<sup>th</sup> Guam Legislature);  
FELIX P. CAMACHO, in his official  
capacity as the GOVERNOR OF GUAM.

Defendants.

CIVIL CASE NO. 04-00046

**STATEMENT OF NON-AGREEMENT ON  
HEARING DATE ON MOTION FOR  
SUMMARY JUDGMENT;  
REQUEST FOR ORAL ARGUMENT ON  
MOTION FOR SUMMARY JUDGMENT**

This Agreement of Hearing Date is submitted pursuant to Local Rules 7.1(b), 7.1(e)(1), and 7.1(e)(2).

1. I, Thomas L. Roberts, am the attorney for the Plaintiff in this matter. On Tuesday, November 23, 2004, I sent the letter attached hereto as Exhibit A via facsimile to counsel for all

other parties, in which I requested them to agree to one of several proposed hearing dates on the pending motion for summary judgment.

2. The attorneys for the opposing parties are:

- a. Cesar C. Cabot, Esq.
- b. Therese M. Terlaje, Esq.
- c. Shannon J. Taitano, Esq.
- d. Michael A. Pangelinan, Esq.
- e. Office of the Attorney General

3. Therese Terlaje, counsel for the Legislature, agreed to a hearing date of December 17, 2004. However, as of today, Thursday, December 2, 2004, no other attorney representing any other party has agreed to any of my proposed hearing dates.

4. I request that oral argument on my pending motion for summary judgment be scheduled by the Court as soon as practicably possible under the Federal Rules of Civil Procedure.

Respectfully submitted this 2<sup>nd</sup> day of December, 2004.

DOOLEY ROBERTS & FOWLER LLP

By: 

THOMAS L. ROBERTS  
Attorneys for Plaintiffs

DOOLEY ROBERTS & FOWLER LLP  
ATTORNEYS AT LAW

DAVID W. DOOLEY  
THOMAS L. ROBERTS  
KEVIN J. FOWLER  
JON A. VISOSKY

SUITE 201, ORLEAN PACIFIC PLAZA  
865 SOUTH MARINE DRIVE  
TAMUNING, GUAM 96913  
TELEPHONE: (671) 646-1222  
FACSIMILE: (671) 646-1223  
www.GuamLawOffice.com

Of Counsel:  
MELINDA C. SWAVELY

Writer's Direct Email:  
Roberts@GuamLawOffice.com

November 23, 2004

Via Facsimile

Cesar C. Cabot, Esq.  
Law Office of Cesar C. Cabot  
2<sup>nd</sup> Floor, BankPacific Building  
825 South Marine Corps Drive  
Tamuning, Guam 96913  
Facsimile No. 646-0777

Michael A. Pangelinan, Esq.  
Calvo & Clark  
655 South Marine Corps Drive  
Tamuning, Guam 96913  
Facsimile No. 646-9403

Therese M. Terlaje, Esq.  
Post Office Box 864  
Hagatna, Guam 96932  
Facsimile No. 472-8896

Rob Weinberg, Esq.  
Office of the Attorney General  
Suite 2-200E, Guam Judicial Center  
120 West O'Brien Drive  
Hagatna, Guam 96910  
Facsimile No. 472-2493

Shannon J. Taitano, Esq.  
Office of the Governor  
Post Office Box 2674  
Hagatna, Guam 96932  
Facsimile No. 477-4826

**Re: *Merrill v. Guam Election Commission*; District Court Case No. CIV04-00046**

Dear Counsel:

As you know, I have filed a motion for summary judgment. Rule 7.1(e)(2) of the District Court Local Rules ("LR") requires me to file an "Agreement of Hearing Date" if I want to orally argue my motion, which I do. Fridays are "Motion Day" under District Court General Rule ("GR") 10.1. Therefore, I propose an agreed hearing date of Friday, December 17, 2004 at 9:30 a.m., which is the soonest the motion could be argued under LR 7.1(b)'s 21 day notice of hearing requirement. If this is not acceptable, then I propose Thursday, December 23, 2004 at 9:30 a.m. in accordance with GR 10.1, since Friday, December 24, 2004 is a holiday at the District Court. If this is unacceptable, then I propose Thursday, December 30, 2004 at the hour of 9:30 a.m., since Friday, December 31, 2004 is a legal holiday at the District Court. If none of these three

**EXHIBIT**

**A**

November 23, 2004  
Page 2

proposed hearing dates is acceptable to everyone, I will simply file a blank "Agreement of Hearing Date" with the Court pursuant to LR 7.1(e)(2) along with a notation that the non-moving parties have not agreed on a hearing date.

Please let me know by email this week your preferences. Thanks.

Sincerely,

DOOLEY ROBERTS & FOWLER LLP

  
**Thomas L. Roberts**

F:\Documents\TLR (07.04)\C325 CFED\C325 L04 All Counsel.doc

**CERTIFICATE OF SERVICE**

I, **THOMAS L. ROBERTS**, hereby declare that on December 2nd, 2004, I caused a copy of Plaintiffs' Statement of Non-Agreement on Hearing Date on Motion for Summary Judgment; Request for Oral Argument on Motion for Summary Judgment to be served upon the following:

Cesar C. Cabot, Esq.  
2<sup>nd</sup> Floor, BankPacific Building  
825 South Marine Corps Drive  
Tamuning, Guam 96913

Therese M. Terlaje, Esq.  
Post Office Box 864  
Hagatna, Guam 96932

Shannon J. Taitano, Esq.  
Office of the Governor  
Post Office Box 2674  
Hagatna, Guam 96932

Calvo & Clark  
655 South Marine Corps Drive  
Tamuning, Guam 96913

Office of the Attorney General  
Suite 2-200E, Guam Judicial Center  
120 West O'Brien Drive  
Hagatna, Guam 96910

Dated this 2<sup>nd</sup> day of December 2004.



**THOMAS L. ROBERTS**